

Credit Counseling **11 U.S.C. § 109(h)**

11 U.S.C. § 109(h) provides that individuals filing a petition under chapters 7, 11, or 13 must receive an approved credit counseling briefing (subject to exceptions set forth below) in order to be eligible to be a debtor under the Bankruptcy Code. This briefing must take place during the 180 day period preceding the date of the filing of the petition.

The clerk must maintain a publicly available list of approved credit counseling agencies.¹ 11 U.S.C. § 111(a)(1). The list should be posted on the court's website and should be available to the public at the clerk's office. Upon notification from the UST or BA that a particular agency's approval has been withdrawn, the court shall remove that name from the list.

The debtor must complete the new Exhibit D to Official Form 1 in order to indicate whether credit counseling has been obtained. If the debtor has not received credit counseling, the debtor must either indicate that the waiver of the credit counseling requirement under 11 U.S.C. § 109(h)(4) is applicable or that an exigent circumstance exists. If the debtor does not submit this form as required by Interim Rule 1007(c), it is recommended that the court issue a deficiency notice in accordance with local procedure. If debtors filed a joint petition, each debtor must file a separate Form Exhibit D.

If the debtor fails to comply with the requirements of 11 U.S.C. § 109(h), the case can be dismissed.

¹ These lists have been compiled by the United States Trustee (UST) or Bankruptcy Administrator (BA) and both lists can be accessed at the following link:
<http://www.uscourts.gov/bankruptcycourts/debtors.html>.